

SEP 25 2003**NOT FOR PUBLICATION****UNITED STATES COURT OF APPEALS****FOR THE NINTH CIRCUIT****CATHY A. CATTERSON****U.S. COURT OF APPEALS**

UNITED STATES OF AMERICA,

Plaintiff - Appellee,

v.

GREGORY LAWRENCE BONITZ,

Defendant - Appellant.

No. 03-10084

D.C. No. CR-02-00223-JLQ

MEMORANDUM*

Appeal from the United States District Court
for the District of Nevada
Justin L. Quackenbush, Senior Judge, Presiding

Submitted July 28, 2003**

Before: SKOPIL, FERGUSON, and BOOCHEVER, Circuit Judges.

Gregory Lawrence Bonitz was convicted by a jury of one count of violating
18 U.S.C. § 472. He appeals, arguing that there was insufficient evidence that he

* This disposition is not appropriate for publication and may not be cited to or by the courts of this circuit except as provided by Ninth Circuit Rule 36-3.

** This panel unanimously finds this case suitable for decision without oral argument. See Fed. R. App. P. 34(a)(2).

knew the federal reserve notes that he passed were counterfeit and that he possessed the required intent to defraud. We affirm.

There is sufficient evidence to support Bonitz's conviction "if, viewing the evidence in the light most favorable to the prosecution, any rational trier of fact could find the essential elements of the crime beyond a reasonable doubt." United States v. Howick, 263 F.3d 1056, 1065 (9th Cir. 2001), cert. denied, 535 U.S. 946 (2002).

The evidence showed that Bonitz at first told agents that he received the counterfeit \$100 bills from another casino, and only later admitted that he found the bills hidden in the car he was repairing. "[I]nconsistent exculpatory statements concerning the source of the [counterfeit] bills . . . can be regarded as evidence of consciousness of wrongdoing." United States v. McCall, 592 F.2d 1066, 1068 (9th Cir. 1979) (per curiam). A counterfeit bill torn at the corner was found in the console of Bonitz's car, which is evidence to support that Bonitz tested the money to see whether it had the security strips present in genuine notes.

Most importantly, Bonitz reviewed and signed a written statement that stated that when he first found the money in the car he was repairing he believed it was genuine, but that "After thinking about the money for a while, I came to the conclusion that the money might be counterfeit. . . ." [ER pp. 157-58] He then

described gambling and exchanging some of the money for change. Bonitz's own statement is enough for a jury reasonably to find that he knew the bills were counterfeit when he passed them at the casino.

AFFIRMED.